
*** RX REPORT ***

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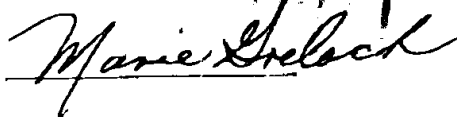
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GROUP 1600**CERTIFICATE OF TRANSMISSION**

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Date: December 2, 2002Printed Name: Marie M. GrelochSignature: 

IN THE UNITED STATES PATENT & TRADEMARK OFFICEApplication of: Rajnikant Patel, et al.Serial Number: 09/659,683Group Art Unit: 1626Filed: September 11, 2000Examiner: S. WrightFor: One Pot Synthesis of 2-Oxazolidinone Derivative

TRANSMITTALAssistant Commissioner for Patents
Washington, DC 20231

Sir:

Transmitted herewith are the following: 1) Response (2 pages). No fees are believed to be due. However, please charge Deposit Account No.: 26-0166 for any fees that might become due.

Respectfully submitted,

Dated: December 31, 2002

By: 

George A. Gilbert

Registration No.: 35,881

Docket No. 40323-3

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Date: December 2, 2002Printed Name: Marie M. GrelochSignature: **IN THE UNITED STATES PATENT & TRADEMARK OFFICE****Application of:** Rajnikant Patel, et al.**Serial Number:** 09/659,683**Group Art Unit:** 1626**Filed:** September 11, 2000**Examiner:** S. Wright**For:** One Pot Synthesis of 2-Oxazolidinone Derivative

RESPONSE

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

Claim 13 stands rejected under 35 USC Section 102(e) as unpatentable over Robertson et al.

Applicants respectfully traverse this rejection.

In order for reference to anticipate a claim, the reference must contain every element of the claim. The invention as describe in pending claim 13 contains the language "pure, non-solvated (S)-N,N-dimethyl-2-[5-(2-oxo-1,3-oxazolidine-4-yl-methyl)-1H-indole-3-yl]ethylamine." The burden is on the Examiner to show through a reference that the element "pure, nonsolvated" compound is disclosed. Applicant respectfully submits that the Examiner has not shown a pure, non-solvated form of the compound in any reference.

The Examiner asserts that Robertson et al. teaches a pure non-solvated compound. Application respectfully disagrees. First, Robertson et al. does not use the words "pure" or "non-solvated." The Examiner states initially that a compound "by default, if not explicitly named to have solvent, is a non-solvated compound." However, that Examiner does not refer to any reference, document, teaching or facts within her own knowledge to substantiate such rule.

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Serial No. 09/659,683

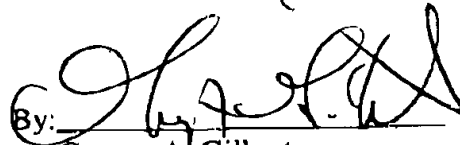
Robertson et al., does not describe any level of purity and Robertson et al. does not describe the purpose of the process steps e.g., to reach a certain purity level. Accordingly, in the absence of some teaching in the prior art that the mere mention of a compound refers to it having a certain level of purity or being non-solvated, applicant submits that the Examiner has not established the "pure, non-solvated" element of the instant claim.

With respect to the process steps on Column 28, lines 29-32, more is needed than just the recitation of the dilution and filtered steps provided. That is, the Examiner implies that the steps recited by Robertson et al. will achieve a "pure" and/or "non-solvated" sample. There is nothing recited in the process steps to indicate that Robertson et al. sought to attain a pure and non-solvated form of the compound. Similarly, with respect to language at Column 29, lines 15-18, the Examiner shows no teaching that a NMR sample is at a certain degree of purity. NMR samples can be analyzed with samples of varying degrees of purity.

Applicant respectfully submits that Robertson et al. does expressly refer to any pure, much less non-solvated, compound. Applicant further submits that the mere mention of a compound does not, in the context set forth in the references, by default refer to the pure compound.

In view of the above remarks, Applicant earnestly requests reconsideration and allowance of the pending claim.

Respectfully submitted,

By: 

George A. Gilbert

Registration No.: 35,881

Dated: December 31, 2002